

## REMARKS

Entry of the foregoing and reexamination and reconsideration of the subject application, as amended, pursuant to and consistent with 37 C.F.R. § 112, are respectfully requested in light of the following remarks.

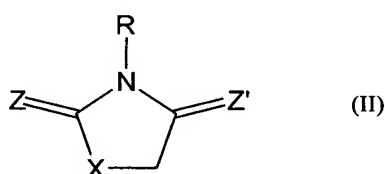
Applicants gratefully acknowledge and thank Examiner Stockton for the telephonic interview of March 13, 2007 with applicants' representatives. Examiner Stockton initially indicated that because of the extremely broad definition of the heterocyclic ring, Hy, it would be necessary to limit G in the heterocycle to only one specific member, either O, S or NH. Even with such a restriction, Examiner Stockton expressed concern with the breadth of the claims on the heterocycle, Hy, because an initial attempt to conduct a search was not meaningful, as a search could not successfully be performed because of the large number of "hits" in the search. In discussing ways to possibly restrict the claims to allow for a meaningful search that would cover the disclosure, it was felt that defining Hy to be formula (II), as set forth on pages 18 and 19 of the specification where X is S, O or NH, would be acceptable. Examiner Stockton also indicated that with Hy defined as such, G could represent S, O or NH. Examiner Stockton indicated that she was willing to change the restriction and examine a subgenus of formula I, where Hy represents formula II (as found on page 19, line 1 of the specification) and where G represents O, S and NH. Applicants appreciate the Examiner's helpfulness in arriving at a mutually agreeable genus.

Upon entry of the foregoing amendments, Claims 1, 2, 4, 6, 7, 9, 11-24, 48-50, 58 and 60-103 will be in this application. Claims 3, 5, 8, 10, 25-47, 51-57 and 59 have previously been cancelled without prejudice or disclaimer.

Claims 1, 2, 4, 7, 9, 49, 50, 58 and 68 have been amended to:

(1) delete various substituents from the definitions of the heterocycle Hy;

(2) add to the definition of Hy that Hy is a heterocycle of formula (II):

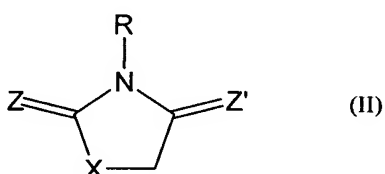


where Z and Z' independently represent S or O, X independently represents S or O or NH, R denotes a hydrogen, a linear or branched C<sub>1</sub>-C<sub>10</sub> alkyl radical;

(3) delete various substituents from the definitions of R<sub>1</sub>, R<sub>2</sub> and R<sub>3</sub>; and

(4) correct typographical errors made in the previous amendment by replacing NR<sub>0</sub>C(=NR<sub>0</sub>')NR<sub>0</sub>"R<sub>0</sub>' with NR<sub>0</sub>C(=NR<sub>0</sub>')NR<sub>0</sub>"R<sub>0</sub>" and replacing the second occurrence of R<sub>0</sub>' in the definition of R<sub>0</sub>, R<sub>0</sub>', R<sub>0</sub>" and R<sub>0</sub>', with R<sub>0</sub>".

Support for Hy being a heterocycle of formula (II)



where Z and Z' independently represent S or O, X independently represents S or O or NH, R denotes a hydrogen, a linear or branched C<sub>1</sub>-C<sub>10</sub> alkyl radical is found at least on page 18, line 21 - page 19 line 15 of the specification. Support for correcting the typographical errors by replacing NR<sub>0</sub>C(=NR<sub>0</sub>')NR<sub>0</sub>"R<sub>0</sub>' with NR<sub>0</sub>C(=NR<sub>0</sub>')NR<sub>0</sub>"R<sub>0</sub>" and replacing the second occurrence of R<sub>0</sub>' in the definition of

$R_0$ ,  $R_0'$ ,  $R_0''$  and  $R_0'''$ , with  $R_0'''$  within the definitions of  $R_1$ ,  $R_2$  and  $R_3$  is found on page 9, line 20 - page 10, line 8 of the specification and the originally filed claims.

Claim 12 has been amended to place the claim in proper claim language by placing a period at the end of the claim.

Claims 20, 48, 62 and 63 have been amended to replace Claim with claim to have consistent claim language throughout the application.

Claim 63 has also been amended to correct a typographical error by replacing "Z'are" with "Z' are ".

Claim 65 has been amended to delete the phrase "and their analogues".

Claims 75-103 have been added. Claim 75 is analogous to Claim 1 and restricts the compounds to a subgenus of the compounds in Claim 1. Support for this amendment is found in the specification at least on page 22 line 7 - page 23, line 1. Claims 76 and 77, which depend from Claim 75, restrict the compounds to a subgenus of the compounds in Claim 75. Claim 78 is analogous to Claim 2 and restricts the compounds to a subgenus of the compounds in Claim 2. Support for this amendment is found in the specification at least on page 22 line 7 - page 23, line 1. Claims 79 and 80, which depend from Claim 78, restrict the compounds to a subgenus of the compounds in Claim 78. Claim 81 is analogous to Claim 4 and restricts the compounds to a subgenus of the compounds in Claim 4. Support for this amendment is found in the specification at least on page 22 line 7 - page 23, line 1. Claims 82 and 83, which depend from Claim 81, restrict the compounds to a subgenus of the compounds in Claim 81. Claim 84 is analogous to Claim 7 and restricts the compounds to a subgenus of the compounds in Claim 7. Support for this amendment is found in the specification at least on page 22 line 7 - page 23,

line 1. Claims 85 and 86, which depend from Claim 84, restrict the compounds to a subgenus of the compounds in Claim 84. Claim 87 is analogous to Claim 9 and restricts the compounds to a subgenus of the compounds in Claim 9. Support for this amendment is found in the specification at least on page 22 line 7 - page 23, line 1. Claims 88 and 89, which depend from Claim 87, restrict the compounds to a subgenus of the compounds in Claim 87. Claim 90 is analogous to Claim 49 and restricts the compounds to a subgenus of the compounds in Claim 49. Support for this amendment is found in the specification at least on page 22 line 7 - page 23, line 1. Claims 91 and 92, which depend from Claim 90, restrict the compounds to a subgenus of the compounds in Claim 90. Claim 93 is analogous to Claim 50 and restricts the compounds to a subgenus of the compounds in Claim 50. Support for this amendment is found in the specification at least on page 22 line 7 - page 23, line 1. Claims 94 and 95, which depend from Claim 93, restrict the compounds to a subgenus of the compounds in Claim 93. Claim 96 is analogous to Claim 58 and restricts the compounds to a subgenus of the compounds in Claim 58. Support for this amendment is found in the specification at least on page 22 line 7 - page 23, line 1. Claims 97 and 98, which depend from Claim 96, restrict the compounds to a subgenus of the compounds in Claim 96. Claim 99 is analogous to Claim 68 and restricts the compounds to a subgenus of the compounds in Claim 68. Support for this amendment is found in the specification at least on page 22 line 7 - page 23, line 1. Claims 100 and 101, which depend from Claim 99, restrict the compounds to a subgenus of the compounds in Claim 99. Claim 102 is analogous to Claim 4 and restricts the compounds to a subgenus of the compounds of Claim 4. Support for this amendment is found in the specification at least on page 21 line 19 - page 22

line 6. Claim 103 is analogous to Claim 4 and restricts the compounds to a subgenus of the compounds of Claim 4. Support for this amendment is found in the specification at least on page 40 line 1 - page 42 line 8. All of the newly added claims read on the elected method and the elected species.

No new matter has been added in making these amendments.

### **Election/Restriction**

Examiner Stockton had indicated that she was willing to change the restriction and examine a subgenus of formula I, where Hy represents formula II (as found on page 19, line 1 of the specification) and where G represents O, S and NH. Applicants gratefully request that Examiner Stockton amend the restriction to reflect the change in the elected genus and that the restriction will encompass Groups I-III, where G = O, S and NH, respectively, in formula (I).

### **Claim Objections**

Claims 1, 2, 4, 7, 9, 12, 49, 50, 58, 63 and 68 have been objected to because of the informalities listed below. The applicants' response to each informality is given after the listing of each informality.

a) under the definition of Hy, R' is listed twice as a possible substituent on an alkyl group.

Amended Claims 1, 2, 4, 7, 9, 49, 50, 58 and 68 recite a definition of Hy that does not include a group R'. The second listing of R' was a typographical error made in the previous amendment and should have

read R<sup>'''</sup>. However the amendment to these claims renders this objection moot because these claims recite a definition of Hy that does not include a group R'.

b) under the definition of R<sub>1</sub>, R<sub>2</sub> and R<sub>3</sub>, Ro' is listed twice as a possible substituent on an alkyl group.

Claims 1, 2, 4, 7, 9, 49, 50, 58 and 68 have been amended to correct a typographical error made in the previous amendment by replacing the second occurrence of R<sub>0</sub>' with R<sub>0</sub><sup>'''</sup>.

c) Claim 12 does not conform to M.P.E.P. 608.01(m) because the claim must end with a period.

Claim 12 has been amended to place a period at the end of the claim.

d) In Claim 63, a space is needed after the second occurrence of Z'.

Claim 63 has been amended to place a space after the second occurrence of Z'.

Applicants respectfully submit that the objections to Claims 1, 2, 4, 7, 9, 12, 49, 50, 58, 63 and 68 have been rendered moot by the amendments to these claims and therefore these objections should be withdrawn.

**35 U.S.C. §112 second paragraph**

Claim 65 has been rejected under 35 U.S.C. §112, second paragraph, as purportedly being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. The Examiner has indicated that it is unclear what is meant by the "analogues" of cyclosporins and therefore, the metes and bounds of the claim cannot be ascertained.

Applicants' submit that amended Claim 65 can no longer be deemed indefinite as a result of the deletion of the phrase "and their analogues" after cyclosporins. Applicants therefore request the withdrawal of the rejection of Claim 65 under 35 U.S.C. §112, second paragraph.

**Allowable Subject Matter**

Applicants' appreciate the Examiner's indication that the elected method employing the elected species is allowable. The Examiner has agreed to change the definition of the elected method to the methods employing the compounds to which the claims are now restricted. Again, applicants appreciate the Examiner's helpfulness in arriving at a mutually agreeable genus for examination.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

Date: April 5, 2007

By: Mary Katherine Baumeister  
Mary Katherine Baumeister  
Registration No. 26254

P.O. Box 1404  
Alexandria, VA 22313-1404  
703 836 6620